

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:20-cv-00105-MR**

JOHN DOE,

Plaintiff,

vs.

LEES-McRAE COLLEGE, et al.,

Defendants.

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ORDER

THIS MATTER is before the Court on the Plaintiff’s “Motion to Dismiss Defendant’s Counterclaim” [Doc. 47]; and the “Plaintiff’s Motion to Strike or Alternatively for Leave to Respond to Answer” (“Plaintiff’s First Motion to Strike”) [Doc. 49].

“[A]n amended pleading ordinarily supersedes the original and renders it of no legal effect.” Young v. City of Mount Rainier, 238 F.3d 567, 572 (4th Cir. 2001) (quoting In re Crysen/Montenay Energy Co., 226 F.3d 160, 162 (2d Cir. 2000)). Therefore, a plaintiff’s earlier motion to dismiss or strike becomes moot when a defendant files a subsequent answer and counterclaim. Equi-Tech Labs, Inc. v. J. Mitton & Assocs., No. 3:10-cv-165, 2011 WL 2604827, at *2 (W.D.N.C. June 30, 2011) (first citing Pure Country,

Inc. v. Sigma Chi Fraternity, 312 F.3d 952, 956 (8th Cir. 2002); then citing Standard Chlorine of Del., Inc. v. Sinibaldi, 821 F. Supp. 232, 239-40 (D. Del. 1992)) (“Since the original answer is no longer in effect, Plaintiff's Motion to Dismiss and Strike the original answer is now moot.”).

In this case, the Plaintiff filed the Motion to Dismiss Defendant’s Counterclaim on April 26, 2021. [Doc. 47]. The Plaintiff filed the First Motion to Strike the Answer on May 1, 2021. [Doc. 49]. On May 10, 2021, LMC filed its First Amended Answer and Amended Counterclaim. [Doc. 52].¹ As the First Amended Answer and Amended Counterclaim supersede all earlier answers and counterclaims, the Plaintiff’s Motion to Dismiss the Counterclaim [Doc. 47] and the Plaintiff’s First Motion to Strike [Doc. 49], are rendered moot. Young, 238 F.3d at 572.

ORDER

IT IS THEREFORE ORDERED, “Motion to Dismiss Defendant’s Counterclaim” [Doc. 47]; and the “Plaintiff’s Motion to Strike or Alternatively for Leave to Respond to Answer” [Doc. 49] are **DENIED AS MOOT**.

IT IS SO ORDERED.

Signed: June 29, 2021



Martin Reidinger
Chief United States District Judge



¹ The Plaintiff subsequently filed a “Motion to Strike or Alternatively for Leave to Respond to, Amended Answer.” [Doc. 52].